

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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BARRY P. DEGNER,

Plaintiff,

Case No. 05-C-1256

v.

MORTGAGE ELECTRONICS  
REGISTRATION SYSTEMS, INC.,  
HOUSEHOLD MORTGAGE FUNDING, INC.,  
HSBC MORTGAGE SERVICES, INC.,  
USA FUNDING CORP.,  
O'DESS AND ASSOCIATES, S.C.,  
M. ABIGAIL O'DESS and  
CHAD F. KOWALEWSKI,

Defendants.

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**OPINION AND ORDER**

Plaintiff Barry P. Degner is suing four mortgage lenders (Mortgage Electronics Registration Systems, Inc., Household Mortgage Funding, Inc., HSBC Mortgage Services, Inc. and USA Funding Corp.); a law firm (O'Dess and Associates, S.C.); and two lawyers (M. Abigail O'Dess and Chad F. Kowalewski), claiming that they violated various federal lending laws. The Defendants have shown that a parallel action is pending in the Circuit Court of Waukesha County (Wisconsin). In that case, the Defendants are foreclosing on a parcel of real property owned by the Plaintiff.

The Plaintiff has filed a motion for a preliminary injunction and the Defendants have filed motions to dismiss. None of the parties have filed timely responses to the opposing motions.

Having reviewed the record, the court finds that this case involves the same factual predicate as the concurrent case in state court and concludes that exceptional circumstances warrant a stay pursuant to the Colorado River abstention doctrine. See generally Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976). These circumstances include the fact that the state court has assumed jurisdiction over the property which is the subject of the foreclosure action; that avoiding piecemeal litigation is desirable; and that the state action was filed first and has progressed to the summary judgment stage. See Clark v. Lacy, 376 F.3d 682, 685 (7th Cir. 2004).

Accordingly, the court ORDERS that this action is stayed until the parallel state court action has reached its final conclusion.

IT IS FURTHER ORDERED that the Plaintiff's "Motion for Preliminary Injunction" (filed December 15, 2005) IS DENIED without prejudice.

IT IS FURTHER ORDERED that the "Motion to Dismiss" (filed December 28, 2005) IS DENIED without prejudice.

IT IS FURTHER ORDERED that the "Defendants' Motion to Dismiss" (filed December 29, 2005) IS DENIED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court shall submit a JS-6 Form to the Administrative Office of the United States Courts, thereby closing this case for statistical purposes.

IT IS FURTHER ORDERED that nothing in this order shall be considered a dismissal or disposition of this matter and any party may reopen this case by advising

the court and opposing counsel that the state court has reached a final conclusion and that the party is ready to proceed with this case.

Done and Ordered in Chambers at the United States Courthouse,  
Milwaukee, Wisconsin, this 23rd day of January, 2006.

s/ Thomas J. Curran  
Thomas J. Curran  
United States District Judge